

AMENDED IN SENATE JANUARY 4, 2006

SENATE BILL

No. 433

Introduced by Senator Simitian

February 17, 2005

An act to ~~repeal Section 1798.82~~ amend Section 1798.90.1 of the Civil Code, relating to personal information.

LEGISLATIVE COUNSEL'S DIGEST

SB 433, as amended, Simitian. Personal information: ~~computer security; driver's licenses.~~

Existing law authorizes any business to swipe in any electronic device a driver's license or identification card issued by the Department of Motor Vehicles for verification and other specified purposes. It is a misdemeanor to retain or use any of the information obtained by that electronic means for any other purpose.

This bill would require a business to obtain the express consent of the holder to swipe or electronically read the information stored electronically in a driver's license or identification card issued by the Department of Motor Vehicles using any electronic device for verification and other specified purposes. By expanding the definition of a crime, the bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

~~Existing law contains 2 identical provisions of law requiring any person or business that conducts business in California and that owns or licenses computerized data that includes personal information to~~

~~disclose any breach of the security system following discovery or notification of the breach in the security of the data to any resident of this state whose unencrypted personal information was, or is reasonably believed to have been, acquired by an unauthorized person.~~

~~This bill would repeal one of those 2 identical provisions, thereby making a technical, nonsubstantive change.~~

Vote: majority. Appropriation: no. Fiscal committee: ~~no~~-yes.
State-mandated local program: ~~no~~-yes.

The people of the State of California do enact as follows:

1 SECTION 1. Section 1798.90.1 of the Civil Code is amended
2 to read:

3 1798.90.1. (a) (1) Any business may, upon receiving the
4 express consent of the holder, swipe or electronically read the
5 information stored electronically in a driver's license or
6 identification card issued by the Department of Motor Vehicles
7 in using any electronic device for the following purposes:

8 (A) To verify age or the authenticity of the driver's license or
9 identification card.

10 (B) To comply with a legal requirement to record, retain, or
11 transmit that information.

12 (C) To transmit information to a check service company for
13 the purpose of approving negotiable instruments, electronic funds
14 transfers, or similar methods of payments, provided that only the
15 name and identification number from the license or the card may
16 be used or retained by the check service company.

17 (D) To collect or disclose personal information that is required
18 for reporting, investigating, or preventing fraud, abuse, or
19 material misrepresentation.

20 (2) A business may not retain or use any of the information
21 obtained by that electronic means for any purpose other than as
22 provided herein.

23 (b) As used in this section, "business" means a proprietorship,
24 partnership, corporation, or any other form of commercial
25 enterprise.

26 (c) A violation of this section ~~constitutes~~ is a misdemeanor
27 punishable by imprisonment in a county jail for no more than one
28 year, ~~or~~ by a fine of no more than ten thousand dollars (\$10,000),
29 or by both.

1 *SEC. 2. No reimbursement is required by this act pursuant to*
2 *Section 6 of Article XIII B of the California Constitution because*
3 *the only costs that may be incurred by a local agency or school*
4 *district will be incurred because this act creates a new crime or*
5 *infraction, eliminates a crime or infraction, or changes the*
6 *penalty for a crime or infraction, within the meaning of Section*
7 *17556 of the Government Code, or changes the definition of a*
8 *crime within the meaning of Section 6 of Article XIII B of the*
9 *California Constitution.*

10 ~~SECTION 1. Section 1798.82 of the Civil Code, as added by~~
11 ~~Section 4 of Chapter 915 of the Statutes of 2002, is repealed.~~